

Message Text

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ACTION EUR-25

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E.O. 11652: GDS

TAGS: PFOR, PARM, UN, NATO

SUBJECT: DRAFT NETHERLANDS REPLY TO UNSYG'S REPORT ON NAPALM
AND OTHER INCENDIARIES

REF: USNATO 3791

IN PREPARATION FOR POLADS FIRST DISCUSSION AUGUST 14 OF COOR-
DINATION OF NATIONAL REPLIES TO UNSYG'S REPORT ON NAPALM AND OTHER
INCENDIARIES, NETHERLANDS DEL HAS CIRCULATED FOLLOWING DRAFT REPLY.
IT WOULD BE HELPFUL TO HAVE AT LEAST PRELIMINARY DEPARTMENT COM-
MENTS FOR USE AUGUST 14.

BEGIN TEXT:

DRAFT COMMENTS BY NETHERLANDS GOVERNMENT ON THE UN SECRETARY-
GENERAL'S REPORT ON: "NAPALM AND OTHER INCENDIARY WEAPONS AND ALL
ASPECTS OF THEIR POSSIBLE USE".

IN ANSWER TO YOUR NOTE PO 135/12(3) OF JANUARY 8, 1973, IN
WHICH YOU REFERRED TO RESOLUTION 2932
A (XXVII) REQUESTING COMMENTS
ON THE REPORT "NAPALM AND OTHER INCENDIARY
WEAPONS AND ALL ASPECTS OF
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THEIR POSSIBLE USE" (A/8803 AND CORR. 1) THE
NETHERLANDS GOVERNMENT
WOULD LIKE TO MAKE THE FOLLOWING REMARKS.

1. THE SAID REPORT, PREPARED BY A GROUP OF CONSULTANT EXPERTS, CAN BE VERY HELPFUL IN FUTURE DELIBERATIONS ABOUT POSSIBLE INTERNATIONAL AGREEMENTS AIMED AT RESTRICTING THE USE OF NAPALM AND OTHER INCENDIARY WEAPONS AS A MEANS OF WARFARE.

2. IT DOES NOT SEEM VERY FRUITFUL TO EXPLORE POSSIBILITIES TO BAN THE PRODUCTION AND STOCKPILING OF INCENDIARIES SINCE MANY OF THESE WEAPONS ARE SIMPLE TO MANUFACTURE. CONTROL ON SUCH A BAN WOULD BE VIRTUALLY IMPOSSIBLE. BETTER PROSPECTS WOULD BE OFFERED BY PUTTING CERTAIN RESTRICTIONS ON THE USE OF THESE WEAPONS.

3. THE NETHERLANDS GOVERNMENT IS OF THE OPINION THAT RESTRICTION ON THE USE OF INCENDIARIES IN ARMED CONFLICTS

SHOULD INCLUDE THE ELIMINATION OF THE USE OF THESE WEAPONS ON A MASSIVE SCALE. MASSIVE USE OF NAPALM AND OTHER INCENDIARY WEAPONS COULD EASILY LEAD TO WIDESPREAD SUFFERING OF CIVILIAN POPULATIONS BECAUSE OF THE INHERENT INDISCRIMINATE EFFECT OF SUCH USE OF FIRE-PROVOKING WEAPONS.

4. INJURIES, CAUSED BY INCENDIARIES, MAY EASILY LEAD TO UNNECESSARY SUFFERING OF THE VICTIMS. ACCORDINGLY, IT WOULD SEEM THAT THIS KIND OF WARFARE IN AS MUCH AS IT AFFECTS HUMAN BEINGS COULD COME WITHIN THE PURVIEW OF ARTICLE 23 (E) OF THE HAGUE REGULATIONS OF 1907. SPECIAL ATTENTION IS TO BE GIVEN TO THE FACT THAT INJURIES, SUSTAINED FROM THE INCENDIARIES, REQUIRE EXCEPTIONAL RESOURCES FOR THEIR MEDICAL TREATMENT. IN PARTICULAR CIVILIANS MAY SUFFER FROM THIS FACT.

5. INCENDIARIES CAN BE USED SUCCESSFULLY IN CERTAIN MILITARY OPERATIONS, FOR EXAMPLE AGAINST VEHICLES, WOODEN CONSTRUCTIONS, OVERGROUND FUEL DEPOTS AND GROUND SITUATED AIRPLANES. CERTAIN OTHER MILITARY
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USES OF INCENDIARIES, LIKE IN DEVICES TO PRODUCE SMOKE AND IN SEVERAL TYPES OF ANTI-AIRCRAFT ARTILLERY SHELLS, DO NOT REASONABLY LEND THEMSELVES AT ALL TO RESTRICTIONS.

6. IN CONCLUSION, THE NETHERLANDS GOVERNMENT IS OF THE OPINION THAT ON HUMANITARIAN GROUNDS CERTAIN RESTRICTIONS ON THE USE OF NAPALM AND OTHER INCENDIARY WEAPONS SHOULD BE EXPLORED, ESPECIALLY WITH A VIEW TO BAN INDISCRIMINATE USE OF THESE WEAPONS AGAINST CIVILIANS AND TO PREVENT UNNECESSARY SUFFERING OF CIVILIANS AND COMBATANTS. SINCE ONE OF THE PRINCIPAL AIMS OF INTERNATIONAL

LAW APPLICABLE IN ARMED CONFLICTS

IS TO PROHIBIT OR TO LIMIT THE USE OF MEANS OF WARFARE WHICH TEND TO
CAUSE UNNECESSARY SUFFERING AND WHICH HAVE INDISCRIMINATE EFFECTS,
THE
QUESTION OF NAPALM AND OTHER INCENDIARY
WEAPONS MIGHT USEFULLY BE TACKLED
IN CONNECTION WITH THE PRESENT EFFORTS
TO REAFFIRM AND DEVELOP THIS BRANCH
OF INTERNATIONAL LAW. HOWEVER, IT COULD
WELL BE WORTHWHILE TO DISCUSS
RESTRICTIONS ON THE USE OF INCENDIARIES
IN THE CONFERENCE OF THE COMMITTEE
ON DISARMAMENT.

END TEXT
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